

William L. Dunlop

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September 4, 2007

Patrick G. Montgomery
Ferguson Frost & Dodson, LLP
2500 Acton Road, Suite 200
Birmingham, AL 35243

Re: Patricia Anne Cotton v. Beta-Com, Inc. et al.
Dunlop Case 2007474

Dear Mr. Montgomery,

At your request I have prepared this document to communicate my opinions in this matter. The following is a list of the case documents made available to me by your office for my review in developing my opinions. My opinions and conclusions as expressed in this report are prepared to a reasonable degree of safety engineering certainty. Each of my opinions and conclusions regarding this case are based upon my education, experience, relevant standards, and the case materials reviewed.

1. The Complaint and First Amended Complaint;
2. Responses of Cingular Wireless to Plaintiff's Requests For Production of Documents and Supplement Thereto;
3. Responses of Crown Castle South, LLC to Plaintiff's Interrogatories and Requests For Production of Documents;
4. Responses of ALT to Plaintiff's Interrogatories and Requests For Production of Documents and Supplements Thereto;
5. Responses of WesTower to Plaintiff's Interrogatories and Requests For Production of Documents;
6. Initial Disclosures of All Parties;
7. Documents Produced by Betacom Pursuant to WesTower's Subpoena;
8. Photographs of the Tower Site Taken By the Talladega Police Department.
9. Deposition of Eric Davis;
10. Deposition of Jason Cook;
11. Deposition of Jeff Silva;
12. Deposition of Josh Cook;
13. Deposition of Adam Waterman;
14. Deposition of Randy Wheeler;

15. Deposition of Matt Deadmond;
16. Deposition of Dustin Drollinger;
17. Deposition of Rob Camp;
18. Deposition of Nathan Ross,
19. The reports of Girard Turner;
20. The reports of Dr. Clark;
21. The reports of Jimmy Coleman.
22. The Deposition of Girard Turner

My brief understanding of the facts of this case is that Mr. Cotton an employee of Beta-Com, Inc. was fatally injured when an antenna fell and struck him in the head. The antenna was being lowered to the ground from the cell tower by employees of ALT, Inc. My understanding is that a polypropylene rope which was part of the rigging system failed, causing the antenna to fall. The polypropylene rope had been purchased four months before the accident and it had been inspected pursuant to OSHA Standards prior to its use. The cause of the rope failure is uncertain based on my review of the case documents.

My understanding is Mr. Cotton and other Beta Com employees had been working in a concrete covered building below the overhead work and Mr. Cotton was struck in the head upon exiting the building at lunch time. I understand that Mr. Cotton was not wearing a hard hat at the time of his accident.

There is deposition testimony that a conversation occurred between the ALT workers and the Beta-Com workers relating to the contemplated overhead work so that the Beta-Com workers were aware or reasonably should have been aware of the overhead work. Mr. Wheeler is the only individual at the site who denies the conversation occurred and/or denies knowing overhead work was to occur.

My opinions are as follows:

1. The use of polypropylene rope in the construction industry is reasonable and acceptable.
2. The rope involved in this accident was inspected prior to its use as required by the OSHA and industry standards. No defects were apparent.
3. Beta-Com employees were notified by ALT workers of the contemplated overhead work.
4. OSHA and industry practices require the immediate employer to be primarily responsible for its employee's safety; therefore, in this case Beta-Com was primarily responsible for Mr. Cotton's safety.

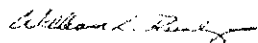
Attached is a copy of my curriculum vitae which outlines my experience, qualifications and credentials relating to my 29 years as a safety engineer. Please note that much of my forensic engineering career has been specifically involved with investigations related to rigging and material handling operations.

Also attached is a list of the forensic cases where I have given trial or deposition testimony in the past four years.

My hourly rate for forensic safety engineering work is \$225. I have no retention or minimum fee.

I reserve the right to amend or supplement my opinions based upon review of any additional information that is made available to me.

Sincerely,



William L. Dunlop, P. E.

Registered Professional Safety Engineer (CA. Saf. 401)

National Engineering Certification: National Academy of Forensic Engineers- Certified

Diplomate of Forensic Engineering by Council of Engineering Specialty Board (NAFE No. 058)

enc.: William L. Dunlop c.v.

List of cases involving testimony

William L. Dunlop Trial and Deposition Appearances 2002-2006

<u>Client</u>	<u>Firm</u>	<u>City</u>	<u>Caption</u>	<u>Disposition</u>
Scott, Stuart, E	Spangenberg Shibley & Liber	Cleveland	Anthony Laurito v. Fisher-Klosterman	Trial 6/23/2006; Depo 2/13/2006 Mpls
Burns, Joseph B.	Rome McGuigan Sabanosh	Hartford	Pelletier v. Sordoni/Skanska	Trial 12/2/2005; Depo 3/02/04 Mpls
Weyls, Brigitte C.	Williams Montgomery & John	Chicago	Busking v. Turner Construction Company	Depo 4/13/2006 Chgo
Kettering, Douglas R.	Kettering Law Office	Yankton	Jerry Langley v. Standard Ready Mix	Depo 3/24/2006
Batastini, Armando E.	Edwards & Angell, LLP	Providence	American Reinsurance/Douthwright	Depo 5/11/2005 Mpls
Jensen, Scott D	Camrud Maddock Olson & Larson	Grand Forks	Jack Martin v. Cavalier County	Trial 8/31/2005 Depo 8/19/2005
Wolske, Christopher D.	Hinshaw & Culbertson LLP	Appleton	Johnson v. Mashuda Contractors	Depo 12/12/2005 Mpls
Bustamante, Fernando	Patton & Ryan LLC	Chicago	Roberta Briefman v. City of Chicago	Depo 5/06/2005 Chgo
Kozol, William V.	Rathbun Cservenyak & Kozol	Joliet	Kevin Dick v. Brandolino Construction	Depo 4/04/2005 Joliet, IL.
Lynch, Christopher J.	Halloran & Sage LLP	Hartford	Edward Caine, et al v. Tech Air	Depo 2/09/05 Hartford
Suby, Mark M.	Hansen Dordell Bradt	St. Paul	Joe Spelios v. Loading Dock Specialists	Trial 06/22/2004
Williams, Kelly A.	McGuire Woods	Pittsburgh	Marshall Potter v. Star Building Systems	Trial 4/21/2004 Phil
Smith, Thomas R.	Beech Street Law Office	Casper	Heiser v. Molzahn Construction	Depo 12/21/2004 Mpls
Houghton, Robert D	Shuttleworth & Ingersoll	Cedar Rapids	Carlson v. Cargill	Depo 12/01/2004 Des Moines
Burns, Joseph B.	Rome McGuigan Sabanosh	Hartford	Pelletier v. Sordoni/Skanska	Depo 3/02/2004 Mpls
Bradley, James R.	Secretest Wardell Lynch	Lansing	Merriam v. Schuppan & Sons, Inc.	Depo 4/26/2004 Mpls
Chaif, Joey	Chaif and Chaif Law Office	Oklahoma City	Victoria L. McMahon v. Jack Cooper	Depo 1/29/04 Phone
Koehn, William J.	Davis Brown Koehn	Des Moines	Beardsley v. O'Day, et al.	Trial 12/11/03 Iowa
Ramstead, John H.	Borkon Ramstead Mariani	Minneapolis	Timothy Klein v. J. R. Grantham, Inc.	Depo 8/21/03 Mpls
Couture, Timothy R.	Warner & Melhofer	Chicago	Dickson v. Domas Mechanical	Depo 8/6/03 Chgo
Kanofsky, Martin A.	Merlo Kanofsky & Brinkmeier	Chicago	Ready v. United/Goedecke	Depo 8/28/03 Chgo
Couture, Timothy	Warner & Melhofer	Chicago	Waldron v. Bornhorst	Depo 2/14/03 Chgo
Wheeler, Ronald J.	Morgan Theeler Wheeler	Huron	Backes v. Under the Sun Rental	Depo 7/23/03 Mpls
McNamara, Lisa Faris	McGrail Carroll & Faris	Brandford	MacDougall v. McClure	Depo 9/13/02 Providence, RI
Ewald, William J.	Denissen Kranzush Mahoney	Green Bay	Strong, et al v. Badgerland	Depo 12/10/02 Green Bay, WI
Couture, Timothy R.	Warner & Melhofer	Chicago	Pelletier v. Jones	Depo 6/26/02 Chgo

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Credentials

Registered Professional Safety Engineer, P. E. California Safety #401

National Certification: NAFE Certified Diplomate of Forensic Engineering by Council of Engineering Specialty Boards

Bachelor of Science in Engineering; 1966 North Dakota State University

Memberships

National Society of Professional Engineers-NSPE; Professional Member

National Academy of Forensic Engineers-NAFE; Senior Member

American Society of Safety Engineers-ASSE; Professional Member

Professional Experience

- 1981-Present *Self-employed Safety Engineer.* Providing safety engineering consultation to law firms, insurance companies, construction companies and the federal government. Approximately 75% of my work involves construction job site accidents. Typical construction cases include (in part):
- Falls from ladders, scaffolds, floor openings, open sided floors, roofs, structural steel, etc.
 - Excavation or trench collapse; i.e. shoring or sloping problems
 - Rigging and material handling problems
 - Crane operations, including tip over and power line contact
 - Heavy equipment operations
 - Steel erection
- Services provided include:
- Accident causation
 - Application of appropriate standards and industry practices
 - Determining responsibilities of various parties; i.e. owner, construction manager, general contractor, subcontractor, etc.
 - Safety research
- Cases other than construction are mostly falls related to premises liability; stairway geometry and guardrail/handrails
- 1974-1981 *Chief Safety Engineer; S. J. Groves & Sons Co., Minneapolis, MN.* Managed corporate safety program for this large construction company which, during my employment, had nine area offices across the United States with 60-80 major construction projects. Approximately 25% time was on the job inspections and consultations monitoring compliance with company safety programs. Other duties included program development and coordinating safety activities with corporate, area and job personnel.
- 1971-1974 *Compliance Officer and Regional Technical Specialist for Construction; US Department of Labor, Occupational Safety and Health Administration; Minneapolis, MN, area office, Region 5 office Chicago, IL.* Duties as compliance officer were primarily to inspect construction work places for compliance with OSHA rules and regulations. Duties as regional technical specialist for construction included consultation with the Department of Labor attorneys regarding contested actions. Provided expert testimony for OSHA.
- 1970-1971 *Field Engineer/Safety Engineer, Chicago Bridge and Iron Co.; Bay City and Ludington, Michigan.*
- 1967-1970 *Safety Engineer, Liberty Mutual Insurance Company; Chicago, Illinois.* Provided safety inspections and consultation for construction companies working in the Chicago area.